IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7003 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RASIKBHAI M SHAH - Petitioner(s)
Versus
DIRECTOR - Respondent(s)

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Appearance :
MR KM SHETH for Petitioner(s) : 1,
MS MAITHILI MEHTA, ASST. GOVERNMENT PLEADER for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 10/01/2007

ORAL JUDGMENT

By way of this petition under Article 226 of the Constitution of India, the petitioner has prayed for an appropriate order quashing and setting aside the impugned office order dated 14-11-2006 by which the actual date of granting the selection grade (senior scale) came to be modified/changed from 1-1-1986 to 1-4-1989.

2. Number of submissions have been made on behalf of the petitioner on merits as well as by the State Government. The main grievance on the part of the petitioner is that the impugned decision has taken without giving an opportunity to the petitioner and the same is in breach of principles of natural justice. Ms Maithili Mehta, ld. AGP is not in a position to satisfy the Court that before changing the date of granting the selection grade (senior scale) from 1-1-1986 to 1-4-1989, whether any opportunity was given to the petitioner or not. Under the circumstances and without expressing any opinion on merits, the impugned communication/order deserves to be quashed and set aside as the same is in breach of principles of natural justice. Under the circumstances, the impugned communication/order dated 14-11-1996 and the action of the respondent in changing the date of granting benefit of selection grade (senior scale) w.e.f.1-1-1986 to 1-4-1989 is quashed and set aside and the matter is remanded to the competent authority for passing an appropriate order in accordance with law and on merits. The said exercise is to be done within a period of six weeks from today. Shri KM Sheth, learned advocate appearing on behalf of the petitioner

has submitted that the petitioner will appear before the respondent for hearing on 18-1-2007 and if it is not convenient to the petitioner, then on 25-1-2007. No further notice will be issued to the petitioner. The petitioner may appear before the respondent on 18th or 25th January 2007. The respondent to pass an appropriate order in accordance with law and on merits after hearing the petitioner. Respondent to communicate the outcome of the same to the petitioner. However, it is made clear that this Court has not expressed any opinion on merits and it is ultimately for the respondent to take appropriate decision in accordance with law and on merits. It is also understood that by quashing and setting aside the impugned order, the petitioner will not be entitled to the benefit of the selection grade (senior scale) w.e.f.1-1-1986 to 1-4-1989 automatically, as the petitioner is yet to be heard on merits.

3. This petition is accordingly allowed. Rule is made absolute to the aforesaid extent. No costs.

(M.R.SHAH,J.)

shekhar/-